

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LOCALS 302 & 612 OF THE  
INTERNATIONAL UNION OF  
OPERATING ENGINEERS  
CONSTRUCTION INDUSTRY HEALTH &  
SECURITY FUND, et al.,

Plaintiffs,

v.

K L PACIFIC CONSTRUCTION, INC.,

Defendant.

CASE NO. C12-1609RAJ

ORDER

This matter comes before the court on Plaintiffs' motion for default judgment. Dkt. # 10. The court GRANTS the motion in part, and directs the clerk to enter a default judgment, but for less than the amount Plaintiffs requested.

The court's role in considering a motion for default judgment is not ministerial. The court must accept all well-pleaded allegations of the complaint as established fact, except facts related to the amount of damages. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987). Where those facts establish a defendant's liability, the court has discretion, not an obligation, to enter a default judgment. *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980); *Alan Neuman Productions, Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir. 1988). The plaintiff must provide evidence to support a claim for a particular sum of damages. *TeleVideo Sys.*, 826 F.2d at 917-18; *see also* Fed. R. Civ. P.

ORDER – 1

1 55(b)(2)(B). Where the plaintiff cannot prove that the sum he seeks is “a liquidated sum  
2 or capable of mathematical calculation,” the court must conduct a hearing or otherwise  
3 ensure that the damage award is appropriate. *Davis v. Fendler*, 650 F.2d 1154, 1161 (9th  
4 Cir. 1981).

5 Plaintiffs are a collection of union trust funds along with a single local union that  
6 is a beneficiary of those trusts. They allege that Defendant, a construction company,  
7 agreed to make monthly contributions to the trust funds based on the hours its union  
8 employees worked, agreed to pay 12% liquidated damages for any delinquent  
9 contributions, agreed to pay 12% annual interest on delinquent contributions, and agreed  
10 to pay audit expenses, attorney fees, and costs. Complaint (Dkt. # 1) Count 1, ¶¶ V-VI.  
11 Defendant also agreed to pay monthly contributions to the local union. *Id.* Count 2, ¶ III.  
12 The court accepts these allegations of the complaint.

13 To support its claim from damages, Plaintiffs submit Defendant’s monthly  
14 remittance reports from July through September of this year. Hinkle Decl., Ex. E. Each  
15 of those reports reflects contributions owed to each of the three Plaintiff trust funds. The  
16 only amount on the remittance report that plainly is payable to the local union is union  
17 dues. The union has also attempted to claim something called “U P,” although the  
18 reports contain no entry for “U P.” Instead, the amount Plaintiffs claim for “U P”  
19 corresponds to an entry labeled “LCP” on each remittance report. Although the court is  
20 willing to assume that dues are among the monthly contributions Defendant owed the  
21 union directly, the court will not make that assumption about “U P” or “LCP” or any  
22 other amount. Plaintiffs summarized Defendant’s unpaid contributions, as well as the  
23 interest and liquidated damages in a spreadsheet. Hinkle Decl., Ex. F. The court accepts  
24 those calculations, except that it will award no judgment to the local union based on any  
25 amount except unpaid dues.

1 Plaintiffs contend that they are entitled to \$486 for attorney fees, and their attorney  
2 attaches a spreadsheet to support that request. Reid Decl. ¶ 17 & Ex. B. The attorney  
3 contends that Plaintiffs actually “incurred” these attorney fees, suggesting that they paid  
4 them. Reid Dec. ¶ 17. The attached spreadsheet, however, is not a billing record. The  
5 court accepts counsel’s implicit statement that Plaintiffs actually paid \$486 in attorney  
6 fees, even though the only evidence from Plaintiffs themselves is silent as to the amount  
7 of fees they paid. Hinkle Decl. ¶ 15. The attorney does not acknowledge that the  
8 spreadsheet includes \$318 for two people who are not attorneys. Reid Decl., Ex. B.  
9 Plaintiffs have only established that they are entitled to attorney fees, and have made no  
10 argument that non-attorney work is compensable. The court deducts \$318 from the  
11 request. The court accepts Plaintiffs’ request for \$430 in costs. Reid Decl., Ex. B.

12 The clerk shall award a default judgment to Plaintiffs. To the Plaintiff trust funds,  
13 the judgment shall award \$7646.43 in unpaid contributions, with liquidated damages of  
14 \$2157.71, and \$313.20 in interest through November 27, 2012 on the unpaid  
15 contributions. Interest on the unpaid contributions only shall accrue thereafter at 12% per  
16 year. To the local union, the judgment shall award \$341.57 for unpaid dues. To all  
17 Plaintiffs, the judgment shall award attorney fees of \$132 and costs of \$405.

18 DATED this 28th day of December, 2012

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22 The Honorable Richard A. Jones  
23 United States District Court Judge  
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